



# **PLANNING COMMISSION AGENDA REPORT**

**VIII. 8**

**MEETING DATE: SEPTEMBER 13, 2004**

**ITEM NUMBER:**

**SUBJECT: PLANNING APPLICATION PA-04-32  
750 W. 17<sup>TH</sup> STREET, #A**

**DATE: SEPTEMBER 2, 2004**

**FOR FURTHER INFORMATION CONTACT: MEL LEE, ASSOCIATE PLANNER  
(714) 754-5611**

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## **PROJECT DESCRIPTION**

The applicant is requesting approval of a conditional use permit to establish a members-only cigar lounge (Havanita's), in a portion of an existing industrial building, with sale of alcoholic beverages for on-site consumption and a minor conditional use permit to deviate from shared parking based upon off-set hours of operation.

## **APPLICANT**

The applicant is Marcia Dossey, representing the property owner, Levon Gugasian.

## **RECOMMENDATION**

Approve by adoption of Planning Commission resolution, subject to conditions.

MEL LEE  
Associate Planner

PERRY L. VALANTINE  
Asst. Development Services Director

## PLANNING APPLICATION SUMMARY

Location: 750 W. 17<sup>th</sup> St, #A Application: PA-04-32

Request: Conditional use permit for members-only cigar lounge and minor cup to deviate from shared parking.

### SUBJECT PROPERTY:

Zone: MG  
General Plan: General Industrial  
Lot Dimensions: 150 FT x 300 FT  
Lot Area: 45,000 SF  
Existing Dev.: 19,800 industrial building.

### SURROUNDING PROPERTY:

North: Surrounding properties are zoned MG and contain  
South: industrial uses.  
East: \_\_\_\_\_  
West: \_\_\_\_\_

### DEVELOPMENT STANDARD COMPARISON (EXISTING BUILDING)

Development Standard                      Required/Allowed                      Proposed/Provided

Lot Size:		
Lot Area	10,000 SF	45,000 SF
Parking:		
Standard	80	53
Handicapped	2	2
TOTAL:	82 Spaces	55 Spaces*

\*See staff report discussion.

CEQA Status: Exempt (Class 1)

Final Action: Planning Commission

Revised 7/95-PLANNING ACTION SUMMARY-COML

## **BACKGROUND**

In 1977, Planning Commission approved ZE-77-11 for construction of the existing industrial building, which included variances from parking and landscaping.

## **ANALYSIS**

The applicant is proposing a private, members-only cigar lounge within 3,182 square feet of the existing 19,800 square foot industrial building. The zoning code does not specifically identify private clubs as a permitted use in the MG zone, however, it does identify civic and community clubs as permitted with the approval of a conditional use permit; as a result, a conditional use permit was required for this request.

In 1998, California enacted a state law banning smoking in public places. This statute exempts "private smokers' lounges". The club will consist of a main lounge area, game rooms, a reading room, a walk-in humidor, and restrooms. The applicant indicates the proposed club will typically be occupied by approximately 15-25 members at any one time, and the members pay an annual fee. No "walk-ups" or daily memberships are accepted. Proposed hours of operation are 4:00 p.m. to 10:00 p.m., Mondays through Thursdays, and 4:00 p.m. to 11:00 p.m., Fridays and Saturdays. The club would be closed most Sundays. The club is proposing to operate with a Type "51" (On-Sale General, Club) State Alcoholic Beverage Control license.

It is staff's opinion the proposed club will be reasonably compatible with the surrounding area, which is industrial. There are no residential properties in the vicinity. Staff has incorporated conditions of approval to minimize adverse impacts on the adjacent properties. Because the club is not open to the general public, security or other problems are not anticipated, however, as noted in the attached memo, the Police Department is concerned with allowing alcohol sales at the site due to the proximity of existing bars in the area and the potential increase in calls for Police service. If the application were to be approved, staff has incorporated recommended conditions of approval to help ensure the use does not create an adverse impact on the surrounding community.

If the use were to be approved, a deviation from shared parking requirements is also required. A summary of the required parking is provided in the following table:

Square Footage of Building	19,800 Sq. Ft.
Square Footage of Proposed Club	3,182 Sq. Ft.
# Spaces Required if Entire Building Used for Industrial Only (3 per 1,000)	59 Spaces
# Spaces Approved for Building per Variance ZE-77-111	55 Spaces
# Spaces Required for Club and Remainder of Industrial Building	82 Spaces (32 for Club + 50 for Remainder of Industrial Building)
# Spaces Deficient	27 Spaces

As indicated in the above table, if both uses were operating at the same time, the entire site would be deficient by 27 parking spaces. Because the club is proposing to operate substantially after the industrial businesses have closed, the site should have sufficient on-site parking during the evening hours, although there could be an overlap in parking between the hours of 4:00 p.m. and 5:00 p.m., when the club is opening and the industrial businesses are closing. However, since the overlap would only be for one hour and it is not anticipated that all the club members would be present within that time frame, no adverse parking impacts are anticipated.

### **ALTERNATIVES**

If the application is not approved, the use cannot be established on the property.

### **CONCLUSION**

The site is bounded on all sides by industrial properties and would operate in the evening hours to reduce any adverse parking impacts. Because the club is not open to the general public, security or other problems are not anticipated.

Attachments: Draft Planning Commission Resolution  
Exhibit "A" - Draft Findings  
Exhibit "B" - Draft Conditions of Approval  
Applicant's Project Description and Justification  
Zoning/Location Map  
Plans  
Police Department Memo

cc: Deputy City Manager - Dev. Svcs.  
Senior Deputy City Attorney  
City Engineer  
Fire Protection Analyst  
Staff (4)  
File (2)

Marcia Dossey  
177 Riverside Avenue #F-264  
Newport Beach, CA 92663

Levon Gugasian  
11 Ridgeline Drive  
Newport Beach, CA 92660

# CITY OF COSTA MESA PLANNING APPLICATION

## PROJECT DESCRIPTION AND JUSTIFICATION

1. Project Address: 750 W. 17<sup>TH</sup> STREET (SUITE A)

2. Fully describe your request:

MEMBERS-ONLY CIGAR LOUNGE WITH ON-SITE  
ALCOHOL SALES FOR MEMBERS ONLY. (NO TO THE  
PUBLIC, OR OFF PREMISES SALES.)  
(SEE ATTACHED)

3. Justification:

(A.) For a Conditional Use Permit or Minor Conditional Use Permit: On a separate sheet, describe how the proposed use is substantially compatible with uses permitted in the same general area and how the proposed use would not be materially detrimental to other properties in the same area.

B. For a variance or Administrative Adjustment: On a separate sheet, describe the property's special circumstances, including size, shape, topography, location or surroundings that deprive the property of privileges enjoyed by other properties in the vicinity under the identical zoning classification due to strict application of the Zoning Code.

4. This project is: (check where appropriate)

☐ In a flood zone.

☐ In the Redevelopment Area.

☐ Subject to future street widening.

☐ In a Specific Plan Area.

☐ Includes a drive-through facility.

(Special notice requirements, pursuant to GC Section 65091 (d))

5. I have reviewed the HAZARDOUS WASTE AND SUBSTANCES SITES LIST reproduced on the rear of this page and have determined the project:

☒ Is not included in the publication indicated above.

☐ Is included in the publication indicated above.

Signature

Date



We are seeking a site to open a private, cigar lounge in Costa Mesa at 750 W. 17<sup>th</sup> Street. The facility [Havanita's] would be a members-only business and we are applying for a Code 51 ABC license for "the on premises sale of alcohol to members only, and their guests, of a private club."

Our planned hours of operation are Monday – Thursday 4 pm–10 pm, and Friday – Saturday 4 pm-11pm. We would be closed most Sundays.

There are many cigar smokers in Costa Mesa and Newport Beach. Due to state legislation, smoking in public facilities is not permitted. We agree that non-smokers should not be subjected to the health risks of those who choose to smoke. Cigar lounges provide a means for those who choose to smoke to enjoy a comfortable environment to socialize in.

We plan on catering-in food for special nights (Monday Night Football, etc). Due to the expense of opening the club with a kitchen, we have put those plans on hold for the time being. Eventually, we will redress this issue and offer prepared food on-site during all hours of operation.

A typical evening at a private cigar lounge sees 15-25 members arrive either on the way home from work or after dinner. They are generally established professionals in the community and participate in business networking, casual conversation, billiards, and watching sports on television while enjoying a cigar and a martini.

We are aware of the city's desire to prevent alcohol related problems and we are confident Havanita's will not be a problem for the city. Our demographics are not typical of establishments that tend to attract problems. Most cigar smokers are established, businessmen, aged 32 and above. They tend to have families. Most go to cigar lounges to enjoy a cigar once or twice per week. They rarely stay more than a couple of hours.

In short, cigar lounges tend to not attract problems. A similar establishment in Orange, CA [Club Havana, 3744 E. Chapman] has not had a single police call in the reporting period of June 1, 2003 – June 30, 2004. According to Barbara Brown at the Orange Police Department, she knows of no problems ever being reported in regard to Club Havana. I was also not able to find a record of problems for AA Tobacco Barn [Lake Forest], Red Cloud [Fullerton], or Joe R's Churchill's of Long Beach [Long Beach].

Costa Mesa/Newport Beach does not currently have a private cigar lounge of this scale to satisfy the needs of our community's cigar aficionados. If a local cigar smoker wants to enjoy a smoke while at a sports lounge, he must go outside. The average cigar will last 45-90 minutes. This smoker will miss most of the game. As a result, these people either drive to the Red Cloud in Fullerton, Club Havana in Orange, or one of the small back-room establishments in the area. We feel it would be a benefit to the community if we could keep this business in our city.

With an emphasis on community, we would be an asset to the city of Costa Mesa. We will provide an inviting environment for the local cigar aficionado to network, socialize, and enjoy their passion.

As stated above, this will be a members-only club. Membership will be paid on an annual basis. We will not accept drop-ins at the door and are not going to offer a "daily membership" rate.

We are seeking to establish this club in a CL/MG zone because we believe a stand-alone building is the best option for us. A space in a strip mall or larger complex would open us up to liabilities of other tenants who may be exposed to the second-hand smoke from our facility via the universal ducting most attached spaces share. Due to the size of the floor plan we are seeking, most stand-alone commercial buildings are either too small or too large, and so are out of the feasible budget parameters of our business model.

Our proposed hours of operation stated above will add a minimal impact to traffic patterns. These hours will also not negatively impact any of the businesses in the immediate vicinity.

We have received support from some of the city officials of Costa Mesa and Newport Beach, the businesses in the vicinity, and local law enforcement. Many of these people have expressed the intention of becoming members of Havanita's should we receive acceptance with the Planning Commission.

We know several areas of Costa Mesa have a heavy concentration of liquor licenses, but as a private club, we do not fit into the same category of general liquor businesses. The alcohol portion of our business is a convenience for our members, not a purpose of existence. We wish to emphasize that our business would not be attractive to the kind of crowd that is typically associated with problems. We would reiterate that none of the other cities that have similar private cigar lounges report any crime problems due to the club.

Derek Gard has been in business management for 20 years in restaurant, construction, and retail businesses. He has a degree from CSU, Sacramento in International Relations and an AA from Saddleback Community College in Financial Planning. After serving in the Navy for two years and participating in Operation Southern Watch in the Persian Gulf, he settled in Costa Mesa in 1994. He founded Beach Bodies Training, Inc (a personal fitness business), and in 1996 became co-owner of SuperBodies Gym, Inc [119 E 18<sup>th</sup> Street]. He currently resides in Mission Viejo with his wife, Nora, and their son Alex. Derek enjoys travel, wine, and, of course, cigars.

Derek can be reached at 949-697-8584 or [dgard@sbcglobal.net](mailto:dgard@sbcglobal.net) for further questions.

Mike Van der Weerd has been a real estate inspector/appraiser since 1989. He founded Premier Appraising in 1993 and is licensed with HUD, FHLMC/FNMA, and is a member of the National Association of Real Estate Appraisers. Mike obtained a degree in Business Administration & Finance from CSU, Long Beach. Mike currently lives in Newport Beach with his wife, Elizabeth. He is also a football coach for Corona del Mar High School. He is an avid football fan, plays for the San Diego Sheriff's Football League, and is a knowledgeable cigar aficionado.

Mike can be reached at 949-254-3843 or [vandy56@earthlink.net](mailto:vandy56@earthlink.net) for further questions.



**RESOLUTION NO. PC-04-**

**A RESOLUTION OF THE PLANNING COMMISSION OF  
THE CITY OF COSTA MESA APPROVING PLANNING  
APPLICATION PA-04-32**

THE PLANNING COMMISSION OF THE CITY OF COSTA MESA HEREBY  
RESOLVES AS FOLLOWS:

WHEREAS, an application was filed by Marcia Dossey, authorized agent for Levon Gugasian, with respect to the real property located at 750 W. 17<sup>th</sup> Street, requesting approval of a conditional use permit to establish a members-only cigar lounge with sale of alcoholic beverages for on-site consumption in a portion of an existing industrial building, and a minor conditional use permit to deviate from shared parking based upon off-set hours of operation; and

WHEREAS, a duly noticed public hearing was held by the Planning Commission on September 13, 2004;

BE IT RESOLVED that, based on the evidence in the record and the findings contained in Exhibit "A", and subject to the conditions contained in Exhibit "B", the Planning Commission hereby **APPROVES** Planning Application PA-04-32 with respect to the property described above.

BE IT FURTHER RESOLVED that the Costa Mesa Planning Commission does hereby find and determine that adoption of this resolution is expressly predicated upon the activity as described in the staff report for PA-04-32 and upon applicant's compliance with each and all of the conditions contained in Exhibit "B". Should any material change occur in the operation, or should the applicant fail to comply with the conditions of approval, then this resolution, and any recommendation for approval herein contained, shall be deemed null and void.

**PASSED AND ADOPTED this 13th day of September, 2004.**

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Chair, Costa Mesa  
Planning Commission

STATE OF CALIFORNIA   )  
  )ss  
COUNTY OF ORANGE    )

I, Kimberly Brandt, acting secretary to the Planning Commission of the City of Costa Mesa, do hereby certify that the foregoing Resolution was passed and adopted at a meeting of the City of Costa Mesa Planning Commission held on September 13, 2004, by the following votes:

AYES:       COMMISSIONERS

NOES:       COMMISSIONERS

ABSENT:     COMMISSIONERS

ABSTAIN:    COMMISSIONERS

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Acting Secretary, Costa Mesa  
Planning Commission

**EXHIBIT "A"****FINDINGS**

- A. The proposed project complies with Costa Mesa Municipal Code Section 13-29(e) because:
1. The proposed development and use is compatible and harmonious with uses on surrounding properties.
  2. Safety and compatibility of the design of the buildings, parking areas, landscaping, luminaries, and other site features including functional aspects of the site development such as automobile and pedestrian circulation have been considered.
  3. The project is consistent with the General Plan.
  4. The planning application is for a project-specific case and does not establish a precedent for future development.
- B. The information presented substantially complies with Costa Mesa Municipal Code section 13-29(g)(2) in that the proposed use is substantially compatible with developments in the same general area. Granting the conditional use permit will not be detrimental to the health, safety and general welfare of the public or other properties or improvements within the immediate vicinity. Specifically, the proposed club will be reasonably compatible with the surrounding area, which is industrial. There are no residential properties in the vicinity. Staff has incorporated conditions of approval to minimize adverse impacts on the adjacent properties. Because the club is not open to the general public, security or other problems are not anticipated. Granting the conditional use permit will not allow a use, density or intensity, which is not in accordance with the general plan designation for the property.
- C. The request to deviate from shared parking based upon offset hours of operation does comply with Costa Mesa Municipal Code Section 13-29(g)(2) in that the deviation will not be detrimental to the health, safety and general welfare of the public or other properties or improvements within the immediate vicinity. Specifically, because the club is proposing to operate in the evening hours, after industrial uses are typically closed, no adverse parking impacts are anticipated.
- D. The project has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines, and the City environmental procedures, and has been found to be exempt from CEQA.
- E. The project is exempt from Chapter XII, Article 3, Transportation System Management, of Title 13 of the Costa Mesa Municipal Code.

**EXHIBIT "B"****CONDITIONS OF APPROVAL**

- Plng.
1. The conditional use permit herein approved shall be valid until revoked, but shall expire upon discontinuance of the activity authorized hereby for a period of 180 days or more. The conditional use permit may be referred to the Planning Commission for modification or revocation at any time if the conditions of approval have not been complied with, if the use is being operated in violation of applicable laws or ordinances, or if, in the opinion of the development services director or his designee, any of the findings upon which the approval was based are no longer applicable.
  2. The business shall be conducted, at all times, in a manner that will allow the quiet enjoyment of the surrounding neighborhood. The applicant and/or business owner shall institute whatever security and operational measures are necessary to comply with this requirement.
  3. A copy of the conditions of approval for the conditional use permit must be kept on premises and presented to any authorized City official upon request. New business/property owners shall be notified of conditions of approval upon transfer of business or ownership of land.
  4. Hours of operation for customer service shall be limited to the hours between 4:00 p.m. to 11:00 p.m., seven days a week.
  5. The use shall be limited to the type of operation described in the staff report, i.e., a members-only cigar lounge with no "walk-ups" or daily memberships accepted, and permitted to operate with a Type "51" (On-Sale General, Club) State Alcoholic Beverage Control license. Any change in the operational characteristics including, but not limited to, hours of operation, sale of alcoholic beverages or provision of live entertainment and/or dancing, will require approval of an amendment to the conditional use permit, subject to Planning Commission approval.
  6. Live entertainment, amplified music and/or dancing shall not be permitted.
  7. A maximum of three (3) pool tables and three (3) video games shall be permitted unless the applicant applies for, and is granted, a minor conditional use permit.
  8. The maximum occupancy, as determined by provisions of the Uniform Building Code or other applicable codes, shall be posted in public view within the premises, and it shall be the responsibility of management to ensure that this limit is not exceeded at any time.
  9. There shall be no sales of alcoholic beverages for off-site consumption.
  10. Applicant shall secure the premises with appropriate security lighting and employee scrutiny of adjacent areas over which applicant has

control, to prevent trash, graffiti, and loitering. Applicant shall further provide adequate lighting above the entrances to the premises sufficient in intensity to make visible the identity and actions of all persons entering and leaving the premises.

11. The applicant shall contact the Planning Division to arrange a Planning inspection of the site prior to occupancy. This inspection is to confirm that the conditions of approval and code requirements have been satisfied.
12. The application will be reviewed annually by Planning Staff. Any problems or violations of the conditions of approval may require the application to be referred to Planning Commission for modification or revocation.

# COSTA MESA POLICE DEPARTMENT

## MEMORANDUM

TO: Lt. Birney  
Planning Department

FROM: Sue Hupp  
Crime Prevention Specialis

SUBJECT: PA-04-32, 750 W. 17<sup>th</sup> Street

DATE: August 24, 2004

In the City of Costa Mesa there are currently 287 businesses that possess an ABC liquor license. Ninety-five of these businesses have an off-sale liquor license, which include liquor stores, markets and convenience stores. As of July 2001, the City of Costa Mesa possessed the 5<sup>th</sup> largest number of off-sale licenses in Orange County. At that time, there were cities with twice the population of Costa Mesa that had fewer off-sale licensed establishments.

Statistics compiled by the California Office of Traffic Safety indicate that for the last several years, Costa Mesa has consistently rated in the top three for D.U.I. related traffic collisions when compared to cities with similar sized population in California. Conversely, in attempting to lower this rating over the years, the Costa Mesa Police Department has consistently rated first in the number of arrests for driving under the influence of alcohol when compared with similar cities.

At this time the Police Department is going to deny the request for a private "cigar lounge" with on-site alcohol sales based on the above information.

  
\_\_\_\_\_  
**SUE HUPP**

Crime Prevention Specialist

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# ZONING/LOCATION MAP

750 W. 17TH ST.

NEWTON



## Legend

Street Names

Parcel Lines

Zoning

Other

Administrative & Professional

Local Business

Local Business & School

General Business

Commercial Limited

Institutional & Recreational

Institutional & Recreational - School

General Industrial

Industrial Park

OCFD

Off Street Parking

Planned Development Commercial

Planned Development Industrial

PA-04-32



**Legend**

Street Names  
Parcel Lines  
Ortho  
Photography





